

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

AMPLA, LLC,	)	CASE NO.: 4:24-cv-0869
	)	
Plaintiff,	)	JUDGE JAMES GWIN
	)	
v.	)	
	)	<b><u>DEFENDANTS BURKE DECOR, LLC,</u></b>
BURKE DECOR, LLC, <i>et al.</i> ,	)	<b><u>AU MARCHE, LLC AND FURNISHINGS</u></b>
	)	<b><u>LA, LLC ANSWER AND AFFIRMATIVE</u></b>
Defendants.	)	<b><u>DEFENSES TO PLAINTIFF AMPLA</u></b>
		<b><u>LLC'S COMPLAINT</u></b>

Defendants, Burke Décor, LLC (“Burke Décor”), Au Marche, LLC (“Au Marche”) and Furnishings LA, LLC (“Furnishings”) (hereinafter collectively referred to as “Defendants”), by their undersigned counsel, hereby answer Plaintiff Ampla, LLC’s (hereinafter “Plaintiff”) Complaint as follows:

1. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, Defendants deny the balance of allegations contained in this paragraph.

2. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

3. Denied.

4. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

5. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

6. Defendants lack information or knowledge sufficient to form a belief as to the truth of the allegations contained in this paragraph and therefore denies the same.

7. Defendants admits the allegations contained in this paragraph.

8. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, Defendants admit that Erin Burke is the sole member of Burke Décor. Defendants deny that Erin Burke is a resident of Ohio.

9. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or

inconsistent with the terms of those documents. In further answer, Defendants admit that Erin Burke is the sole member of Defendant Au Marche, an Ohio limited liability company.

10. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refers to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, Defendants admit that Erin Burke is the sole member of Defendant Furnishings, an Ohio limited liability company.

11. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refers to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents.

12. The allegations contained in this paragraph constitute legal conclusions to which no response is required. If it is determined a response is required, Defendants deny the allegations set forth in paragraph 12, but do not contest jurisdiction.

13. The allegations contained in this paragraph constitute legal conclusions to which no response is required. If it is determined a response is required, Defendants deny the allegations set forth in paragraph 13, but do not contest jurisdiction.

14. Defendants lack information or knowledge sufficient to form a belief as to the truth of the allegations contained in this paragraph and therefore denies the same.

15. Defendants admit the allegations contained in this paragraph.

16. Defendants deny the allegations contained in this paragraph. Defendants state that Plaintiff initially solicited Erin Burke in March 2022 and continued conversations through June 2022.

17. Defendants admit the allegations contained in this paragraph. Defendants further state that Plaintiff was aware of, and in fact, paid off another lender of Defendant Burke Décor as a condition of initiating the line of credit.

18. Defendants admit that Burke Décor connected Plaintiff to its Chase checking account, and provided access to QuickBooks and Shopify. Defendants deny that Defendant Burke Décor provided access to its inventory file. In further answer, Plaintiff did not request audited financial statements or other business information.

19. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

20. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

21. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal

conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

22. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

23. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

24. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

25. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with

the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

26. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

27. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

28. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

29. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants

deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

30. Defendants deny the allegations contained in this paragraph.

31. Defendants deny the allegations contained in this paragraph. Further Answering, permission was provided by Plaintiff to deposit funds into Defendant Burke Décor primary checking accounts due to ongoing deposit delays with Blue Ridge Bank and inexplicable delays, which were acknowledged by Plaintiff.

32. Defendants deny the allegations contained in this paragraph. Further Answering, Plaintiff froze Defendant Burke Décor's line of credit with no notice for not immediately signing the First Amendment to add various other entities as Borrower's to the Agreement. In doing so, Plaintiff prohibited Defendant Burke Décor from making the weekly scheduled payment.

33. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

34. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal

conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

35. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

36. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

37. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

38. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with



the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

39. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

40. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

41. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

42. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants

deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

43. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

44. Defendants deny the allegations contained in this paragraph.

45. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

46. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

47. Denied.

48. Denied.

49. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

50. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

51. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

52. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with

the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

53. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

54. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

55. Denied.

56. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

57. Denied.

58. Denied.

59. Defendants incorporate by reference its answers to paragraphs 1-58 as though more fully set forth herein.

60. Defendant Burke Decor admits that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendant Burke Decor denies as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendant Burke Decor denies the balance of the allegations contained in this paragraph.

61. Denied.

62. Denied.

63. Denied.

64. Denied.

65. Defendants incorporate by reference its answers to paragraphs 1-64 as though more fully set forth herein.

66. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required to this paragraph.

67. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required to this paragraph.

68. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required to this paragraph.

69. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required to this paragraph.

70. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required to this paragraph.

71. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required to this paragraph.

72. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required to this paragraph.

73. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required to this paragraph.

74. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required to this paragraph.

75. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required to this paragraph.

76. Defendants incorporate by reference its answers to paragraphs 1-75 as though more fully set forth herein.

77. Defendants Au Marche and Furnishings admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants Au Marche and Furnishings deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants Au Marche and Furnishings deny the balance of the allegations contained in this paragraph.

78. Defendants Au Marche and Furnishings admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants Au Marche and Furnishings deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants Au Marche and Furnishings deny the balance of the allegations contained in this paragraph.

79. Denied.

80. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

81. Denied.

82. Denied.

83. Denied.

84. Defendants incorporate by reference its answers to paragraphs 1-83 as though more fully set forth herein.

85. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal

conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

86. Denied.

87. The allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the allegations contained in this paragraph.

88. Denied.

89. Denied.

90. Denied.

91. Denied.

92. Denied.

93. Denied.

94. Defendants incorporate by reference its answers to paragraphs 1-93 as though more fully set forth herein.

95. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required from Erin Burke to this paragraph. Defendant Burke Décor denies the allegations contained in this paragraph.

96. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required from Erin Burke to this paragraph. Defendant Burke Décor denies the allegations contained in this paragraph.

97. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required from Erin Burke to this paragraph. Defendant Burke Décor denies the allegations contained in this paragraph.



98. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required from Erin Burke to this paragraph. Defendant Burke Décor denies the allegations contained in this paragraph.

99. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required from Erin Burke to this paragraph. Defendant Burke Décor denies the allegations contained in this paragraph.

100. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required from Erin Burke to this paragraph. Defendant Burke Décor denies the allegations contained in this paragraph.

101. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required from Erin Burke to this paragraph. Defendant Burke Décor denies the allegations contained in this paragraph.

102. Defendants incorporate by reference its answers to paragraphs 1-101 as though more fully set forth herein.

103. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required from Erin Burke to this paragraph. Defendant Burke Décor denies the allegations contained in this paragraph.

104. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required from Erin Burke to this paragraph. Defendant Burke Décor denies the allegations contained in this paragraph.

105. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required from Erin Burke to this paragraph. Defendant Burke Décor denies the allegations contained in this paragraph.

106. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required from Erin Burke to this paragraph. Defendant Burke Décor denies the allegations contained in this paragraph.

107. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required from Erin Burke to this paragraph. Defendant Burke Décor denies the allegations contained in this paragraph.

108. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required from Erin Burke to this paragraph. Defendant Burke Décor denies the allegations contained in this paragraph.

109. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required from Erin Burke to this paragraph. Defendant Burke Décor denies the allegations contained in this paragraph.

110. Defendants incorporate by reference its answers to paragraphs 1-109 as though more fully set forth herein.

111. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required to this paragraph.

112. The allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the allegations contained in this paragraph.

113. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required to this paragraph.

114. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required to this paragraph.

115. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required to this paragraph.

116. Per this Court's Order on July 22, 2024 [Doc # 17], this case is automatically stayed as to Defendant Erin Burke and no answer is required to this paragraph.

117. Defendants incorporate by reference its answers to paragraphs 1-116 as though more fully set forth herein.

118. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

119. Defendants deny that Plaintiff is entitled to any costs or attorneys' fees.

120. Defendants incorporate by reference its answers to paragraphs 1-119 as though more fully set forth herein.

121. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

122. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants

deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

123. Defendants lack information or knowledge sufficient to form a belief as to the truth of the allegations contained in this paragraph and therefore denies the same.

124. Defendants incorporate by reference its answers to paragraphs 1-123 as though more fully set forth herein.

125. Defendants admit that Plaintiff is relying on certain documents to make its allegations, and refer to the contents of those documents for their content and meaning. Defendants deny as untrue any allegations contained in this paragraph that are contrary to or inconsistent with the terms of those documents. In further answer, the allegations in this paragraph contain legal conclusions of the pleader to which no response is required. To the extent a response is required, Defendants deny the balance of the allegations contained in this paragraph.

126. Denied.

127. Denied.

128. Denied.

WHEREFORE Defendants, Burke Décor, LLC, Au Marche, LLC and Furnishings LA, LLC respectfully request this Court dismiss Plaintiff Ampla LLC's Complaint and award Burke Décor, LLC, Au Marche, LLC and Furnishings LA, LLC their costs, expenses, interest and attorneys' fees, and any and all further relief in favor of Burke Décor, LLC, Au Marche, LLC and Furnishings LA, LLC this Court deems just under the circumstances.

## **AFFIRMATIVE DEFENSES**

Defendants, Burke Décor, LLC, Au Marche, LLC and Furnishings LA, LLC (hereinafter collectively referred to as “Defendants”) by and through their undersigned counsel, assert the following affirmative and other defenses to Plaintiff Ampla, LLC’s (hereinafter “Plaintiff”) Complaint. By identifying the defenses set forth below, Defendants do not concede that they bear the burden of proving each defense. Defendants’ burdens will be determined as a matter of law.

Defendants state that they lack sufficient knowledge and information to form a belief as to the truth of the numerous allegations contained in Plaintiff’s Complaint, and therefore deny all such allegations, and until they avail themselves of appropriate discovery, they cannot determine whether any or all of the Affirmative and/or Special Defenses will be asserted before or at trial. In order to preserve Defendants’ right to assert the affirmative defenses, and to avoid any waiver, they are set forth herein. Defendants reserve the right to assert Affirmative and/or Special Defenses that may become apparent during the course of discovery.

1. Plaintiff’s claims are or may be barred and fail, in whole or in part, due to the expiration of the applicable statutes of limitations, statutory, contractual or otherwise.

2. Plaintiff’s claims are or may be barred and fail, in whole or in part, due to the applicable statute(s) of repose.

3. Plaintiff’s claims are or may be barred and fail, in whole or in part, because Plaintiff was the first party to materially breach the contract with Defendants, and therefore, Plaintiff cannot maintain an action for breach of contract against Defendants.

4. Plaintiff’s claims are or may be barred and fail, in whole or in part, because no payment of monies or benefits are due and/or owing to Plaintiff.

5. Plaintiff's claims are or may be barred and fail, in whole or in part, because to the extent any monies or benefits were ever due and/or owing to Plaintiff by Defendants, such monies and/or benefits have been paid in full.

6. Plaintiff's claims are or may be barred and fail, in whole or in part, by the doctrine of recoupment.

7. Plaintiff's claims are or may be barred and fail, in whole or in part, due to set-off.

8. Plaintiff's claims are or may be barred and fail, in whole or in part, because Plaintiff is liable to Defendants for contribution.

9. Plaintiff's claims are or may be barred and fail, in whole or in part, because of Plaintiff's wrongful and/or unlawful conduct.

10. Plaintiff's claims are or may be barred and fail, in whole or in part, because Plaintiff fails to state a claim upon which relief may be granted.

11. Plaintiff's claims are barred and fail, in whole or in part, because Plaintiff cannot establish the *prima facie* elements of any cause of action whatsoever.

12. Plaintiff's claims are or may be barred and fail, in whole or in part, due to discharge.

13. Plaintiff's claims are or may be barred and fail, in whole or in part, due to the doctrines of laches, unclean hands and/or estoppel.

14. Plaintiff's claims are or may be barred and fail, in whole or in part, due to due to modification, waiver and/or release.

15. Plaintiff's claims are or may be barred and fail, in whole or in part, because Plaintiff failed to properly perform its duties under the alleged contract(s) and agreement(s) at issue.

16. Plaintiff's claims are or may be barred and fail, in whole or in part, because Plaintiff's purported claims for remedies and/or damages are barred and/or limited by contract.

17. Plaintiff's claims are or may be barred and fail, in whole or in part, due to excuse of performance.

18. Plaintiff's claims are or may be barred and fail, in whole or in part, due to the doctrine of frustration of purpose.

19. Plaintiff's claims are or may be barred and fail, in whole or in part, due to Plaintiff's failure to mitigate its alleged damages, which are not admitted.

20. Plaintiff's claims are or may be barred and fail, in whole or in part, due to the doctrine of accord and satisfaction.

21. Plaintiff's claims are or may be barred and fail, in whole or in part, due to compromise and/or settlement.

22. Plaintiff's claims are or may be barred and fail, in whole or in part, because Plaintiff's claims and any claimed liability or damages are eliminated and/or limited by the terms of agreements between Plaintiff and Defendants.

23. Plaintiff's claims are or may be barred and fail, in whole or in part, by the statute of frauds.

24. Plaintiff's claims are or may be barred and fail, in whole or in part, for failure to preserve evidence.

25. Plaintiff's claims are or may be barred and fail, in whole or in part, through its own actions or inactions.

26. Plaintiff's claims are or may be barred and fail, in whole or in part, by its actions and conduct that constitutes a waiver of its claims.

27. Plaintiff's claims are or may be barred and fail, in whole or in part, through the actions or inactions of third parties.

28. Plaintiff's claims are barred and fail, in whole or in part, due to Plaintiff's fraud.

29. Defendants hereby give notice to Plaintiff that until Defendants avail themselves of their right to discovery, they cannot determine whether the above-stated affirmative and other defenses will be asserted at trial, but in order to preserve their rights to assert the above-stated defenses and to avoid waiver of any defense, they have asserted the defenses herein.

30. Defendants reserve the right to modify their affirmative and other defenses and/or add such other defenses that may become known through the course of their investigation and discovery in this civil action.

Respectfully submitted,

/s/ Richard H. Blake

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*Attorney for Defendants Burke Décor, LLC,*

*Au Marche, LLC and Furnishings LA, LLC*

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was filed electronically on August 5, 2024. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/ Richard H. Blake

RICHARD H. BLAKE (0083374)

*Attorney for Defendants Burke Décor, LLC,*

*Au Marche, LLC and Furnishings LA, LLC*